

EXHIBIT 5

PAGES 1 - 21

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE SUSAN ILLSTON

IN RE: TFT-LCD (FLAT PANEL)) SAN FRANCISCO, CALIFORNIA
ANTITRUST LITIGATION)
) MDL 07-1827 SI
)
) FRIDAY
) MARCH 15, 2013

TRANSCRIPT OF PROCEEDINGS

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PROCEEDINGS; FRIDAY, MARCH 15, 2013

THE CLERK: CALLING 07 MD 1827 AND VARIOUS RELATED CASES.

JUDGE, THEY'VE SIGNED IN ON THE CHECK-IN SHEET, AND I HAVE ATTORNEYS ON THE PHONE.

THE COURT: WELCOME TO EVERYONE. THANK YOU FOR GATHERING.

I HAVE REVIEWED THE MATERIALS THAT YOU HAVE ALL SUBMITTED, AND I CAN TELL YOU SOME THINGS, AND THEN I'M GOING TO ALLOW YOU TO DISCUSS OTHER THINGS. TO ME THE MOST CENTRAL THING THAT I WANTED TO SHARE WITH YOU IS -- AND THIS I'M SPEAKING NOW OF THE TRACK 1B CASES, THE CASES THAT ARE SET FOR TRIAL.

I HAVE ALSO RECENTLY BEEN REQUIRED TO SET TWO SHORT CRIMINAL TRIALS IN JUNE, ONE ON JUNE 17TH AND ONE ON JULY 1ST. THEY MAY NOT GO, BUT IF THEY DO GO, THEY HAVE PRIORITY OVER EVERYONE IN THIS ROOM. SO MY SUGGESTION IS WE MOVE THE TRIAL DATE TO JULY 22ND. THAT I CAN MORE OR LESS PROTECT FOR YOU, AND I'LL MAKE SURE THERE IS ENOUGH TIME IN THERE THAT WE CAN TRY THE WHOLE CASE.

I KNOW YOU'RE NOT IN AGREEMENT ON EXACTLY HOW LONG IT WILL TAKE, AND I'M NOT SURE I WILL DECIDE THAT TODAY, BUT THE BALLPARK OF WHAT IT'S GOING TO REQUIRE, I THINK, IS BEGINNING TO EMERGE. I WILL HAVE THAT MUCH TIME FOR YOU BASICALLY THE

1 REST OF THE SUMMER. SO WE CAN DO THAT. IT IS CONCEIVABLE WE
2 COULD STILL DO IT ON JUNE 24TH AS IT'S CURRENTLY SET, BUT IT'S
3 NOT CLEAR.

4 I FIGURED SINCE IT'S AN EXPENSIVE PROPOSITION TO GET
5 THE MATTER READY FOR TRIAL AND TO HAVE ALL YOUR WITNESSES IN A
6 ROW, BETTER WE SHOULD ERR ON THE SIDE OF CAUTION AND MOVE IT.
7 THAT'S THE FIRST THING I WANTED TO TELL YOU.

8 THAT WOULD BE JULY 22ND. AND, TRACY, I GUESS THE
9 PRETRIAL WOULD BE JULY 9TH, WHICH IS A TUESDAY. AND WE
10 NORMALLY DO THOSE AT 3:30 IN THE AFTERNOON IF I'M IN TRIAL. IF
11 IT TURNS OUT I'M NOT IN TRIAL AND YOU WOULD LIKE TO DO IT
12 EARLIER IN THE DAY, YOU CAN CERTAINLY MOVE THAT UP SO WE CAN
13 GET EVERYTHING DONE.

14 SO THAT'S POINT NUMBER ONE. I CAN GIVE YOU SOME
15 OTHER -- HAVING READ YOUR PAPERS, SOME OTHER DETERMINATIONS
16 I'VE MADE BASED ON THE COMPETING VIEWPOINTS YOU'VE PRESENTED,
17 AND THIS WON'T BE ALL OF THE ISSUES YOU'VE RAISED, BUT A NUMBER
18 OF THEM.

19 ONE HAS TO DO WITH THE SCHEDULE FOR FILINGS OF THE
20 PRETRIAL MATERIALS. THE PLAINTIFFS WOULD LIKE SIMULTANEOUS
21 EXCHANGES OF WITNESS LIST, EXHIBIT LIST, DEPOSITION
22 DESIGNATIONS, AND WRITTEN DISCOVERY DESIGNATIONS. THE
23 DEFENDANTS PROPOSE A STAGGERED -- A STAGGERED EXCHANGE. I
24 AGREE WITH THE DEFENSE.

25 I THINK IT WILL BE MORE EFFICIENT AND TARGETED IF THE

1 PLAINTIFFS HAVE FILING DATES, AND THEN THE DEFENDANTS HAVE
2 FILING DATES. AND I THINK, AS YOU'VE PROPOSED IT, THEN THERE'S
3 MORE PLAINTIFFS' FILING DATES AND MORE DEFENSE FILING DATES. I
4 CARE NOT REALLY HOW YOU DO IT. IF THE QUESTION IS SHOULD IT BE
5 STAGGERED OR NOT, I AGREE WITH THE DEFENSE IT SHOULD BE
6 STAGGERED.

7 SO, BASICALLY, THE PLAINTIFFS WILL PUT IT OUT THERE,
8 AND THE DEFENDANTS WILL HAVE AN OPPORTUNITY TO SEE THAT AND
9 KNOW WHO THEY WANT TO ADD AND HOW THEY WANT TO REACT TO THAT.
10 I THINK THAT MAKES SENSE.

11 ON *DAUBERT*, MUCH OF THE -- MUCH OF THE ANGST IN YOUR
12 PAPERS HAS TO DO WITH THE TRIAL DATE, AND PARTICULARLY
13 TOSHIBA'S ANXIETY ABOUT THE TRIAL DATE, AND ALL THE DATES ARE
14 KEYED OFF OF THE EARLIER TRIAL DATE. THERE'S NOW ANOTHER MONTH
15 TO PLAY WITH. SO, ONE OF THE THINGS I'M GOING TO DO TODAY IS
16 SEND YOU HOME AND PLAY WITH THAT MONTH AND SEE IF YOU CAN COME
17 TO A CLOSER PROPOSED RESOLUTION ON WHAT THE PROPOSED DATES
18 SHOULD BE.

19 BUT, IN GENERAL, THE -- SOME OF YOU, I GUESS THE
20 PLAINTIFFS, WERE SUGGESTING AN EARLIER *DAUBERT* SCHEDULE THAN
21 THE MOTIONS IN LIM ON THE TRIAL ITSELF, AND I AGREE WITH THAT.
22 IT SEEMS TO ME YOU OUGHT TO GET AS MUCH OF THE *DAUBERT* STUFF,
23 WHICH IS MORE COMPLEX, OUT OF THE WAY BEFORE WE GET TO THE
24 PRETRIAL CONFERENCE. THAT'S JUST WAY TOO LATE TO BE MAKING
25 COMPLEX DECISIONS LIKE THAT. SO, TO THE EXTENT THE QUESTION IS

1 SOONER OR NOT SOONER, I WOULD URGE IT BE SOONER.

2 ANYTHING THAT TOYOTA ABSOLUTELY CAN'T DO, I GUESS,
3 CAN BE PUT OFF UNTIL SUCH A TIME AS IT CAN DO IT. ANYTHING
4 THAT CAN BE DONE EARLIER SHOULD BE, AND THINGS THAT ARE COMMON
5 TO THE CASES SHOULD BE DONE SOONER.

6 ON THE REMAND CASES, THERE'S THE CONTINUING ISSUE OF
7 WHAT SHOULD BE DECIDED HERE AND WHAT SHOULD BE DECIDED THERE.
8 YOU'VE AGREED, I GUESS, THAT COMMON *DAUBERT* ISSUES SHOULD BE
9 HEARD HERE. THAT'S FINE. AND THERE'S A DISPUTE OVER COMMON
10 NON-*DAUBERT* MOTIONS IN LIM. I DON'T KNOW WHAT THAT MEANS.

11 MY SUGGESTION ON THAT WOULD BE THAT IF -- AND
12 THAT'S -- THE PLAINTIFFS WANT THAT; THE DEFENDANTS DON'T WANT
13 THAT. IF THERE ARE SPECIFIC THINGS THE PLAINTIFFS WOULD LIKE
14 ME TO DECIDE FOR THOSE CASES, YOU CAN TELL ME WHAT THEY ARE,
15 AND I'LL LET YOU KNOW. I DON'T KNOW. CERTAINLY, THERE ARE A
16 LOT OF MOTIONS IN LIMINE THAT THE TRIAL JUDGE WOULD WITH WANT
17 TO DECIDE HIM OR HERSELF BECAUSE IT'S GOING TO BE THEIR TRIAL.

18 MAYBE THERE ARE OTHER ISSUES THAT WOULD APPROPRIATELY
19 BE DECIDED HERE, BUT I DON'T KNOW WHAT YOU'RE ASKING ABOUT, SO
20 WE NEED TO SEE THAT AS WE GO BY.

21 THE AMOUNT OF TRIAL TIME, I HAVEN'T MADE A DECISION.
22 PLAINTIFFS SAY 60 HOURS EACH. DEFENDANT SAYS 60 HOURS ISN'T
23 ENOUGH. I'M NOT SURE WHAT WILL BE ENOUGH, BUT, AS I SAY, I AM
24 PLANNING TO RESERVE FOR YOU ENOUGH TIME ON MY TRIAL CALENDAR
25 ANYWAY THAT WE CAN GET THE CASE COMPLETED IN AN EFFECTIVE WAY.

1 SO HOW MANY HOURS THAT WORKS OUT TO BE WE CAN CONTINUE TALKING
2 ABOUT. I AM NOT GOING TO DECIDE THAT TODAY. BUT THERE WILL BE
3 ENOUGH TIME.

4 NEUTRAL VIDEO PRESENTATION, YOU SHOULD TALK TO EACH
5 OTHER ABOUT THAT.

6 I DO NOT -- OH, BIFURCATION. I AGREE WITH THE
7 DEFENDANTS. I DON'T THINK IN THIS CASE THAT IT WOULD WORK TO
8 BIFURCATE -- AS I UNDERSTAND IT, THE REQUEST WAS THAT THE
9 DIRECT PURCHASERS BE BIFURCATED FROM THE INDIRECT PURCHASERS.
10 I THINK, GIVEN THE NATURE OF THE CLIENTS AND THE BUSINESS,
11 THERE'S JUST TOO MUCH OVERLAP THERE. AND THIS IS GOING TO BE A
12 PARTICULARLY INTERESTING AND CHALLENGING SET OF ANALYSES
13 ANYWAY, SO I THINK SINCE WE ARE GOING TO DO A JURY ON IT, THE
14 JURY OUGHT TO HAVE EVERYTHING BEFORE IT AND DECIDE EVERYTHING
15 THAT'S PUT TO IT.

16 ON PREVIOUS IN LIMINE RULINGS, I AGREE WITH WHOEVER
17 SAID, WELL, THEY'RE COMING UP NEW FOR THIS CASE, AND THEY'LL BE
18 DECIDED NEW FOR THIS CASE. HOWEVER, IF THE SAME ISSUE HAS COME
19 UP BEFORE AND I'VE RULED ON IT, I WANT YOU TO TELL ME THAT SO
20 THAT I WILL KNOW WHAT I DID BEFORE. MAYBE I'LL DO THE SAME
21 THING ALL OVER AGAIN, OR MAYBE I WILL HAVE LEARNED FROM SAD
22 EXPERIENCE THAT IT DIDN'T WORK THAT WAY. NOBODY IS BOUND BY
23 ANYTHING, BUT EXPERIENCE WILL CERTAINLY BE A GUIDE. SO IT
24 WOULD HELP ME FOR EVERYONE AT ALL TURNS TO TELL ME IF THESE
25 ISSUES HAVE BEEN PREPARED PREVIOUSLY AND WHAT HAPPENED.

1 I DO NOT INTEND TO HAVE AN EVIDENTIARY HEARING ON THE
2 ATM FEE ISSUES.

3 THAT'S KIND OF ALL THE CONCLUSIONS I HAD REACHED
4 ABOUT THE TRACK 1B CASES.

5 SO, THE OTHER THINGS THAT YOU SPENT A GREAT DEAL OF
6 TIME TALKING ABOUT WERE SCHEDULES AND BACK AND FORTH. I'M
7 SORRY TO BE INDECISIVE ABOUT THAT, BUT I THINK, GIVEN NEW
8 DATES, YOU NEED TO GO OUT AND TALK TO EACH OTHER AGAIN AND SEE
9 WHAT YOU THINK THE SCHEDULES OUGHT TO LOOK LIKE. IF YOU STILL
10 CAN'T AGREE, I'LL DECIDE THEM, BUT THE ONES YOU'VE GOT NOW
11 WOULD NOT BE THE ONES WE WOULD ADHERE TO, IN ANY EVENT.

12 WITH RESPECT TO THE TRACK 2 CASES, IT'S OKAY WITH ME
13 IF YOU WANT TO MOVE THOSE OUT BY THE DATES THAT HAVE BEEN
14 SUGGESTED. WITH RESPECT TO T-MOBILE'S CLAIMS, IF -- CERTAINLY
15 THE SITUATION HAS CHANGED, BUT I THINK A MOTION NEEDS TO BE
16 MADE TO RE-UP -- RE-UP THOSE CLAIMS. I DON'T KNOW WHAT YOU
17 WOULD CALL IT. BUT IT CAN'T JUST HAPPEN WITHOUT A MOTION, SO I
18 NEED A FULLY BRIEFED AND ARGUED MOTION ON THAT.

19 THAT'S EVERYTHING I HAD ON MY LIST. NOW, I WILL BE
20 HAPPY TO CONSIDER ANYTHING ELSE YOU WANT TO TALK ABOUT.

21 MR. CURRAN.

22 **MR. CURRAN:** GOOD AFTERNOON, YOUR HONOR. CHRISTOPHER
23 CURRAN FOR TOSHIBA.

24 I HEARD YOUR HONOR'S RULING ON THE ATM FEE
25 EVIDENTIARY HEARING. I WOULD APPRECIATE SOME CLARIFICATION OF

1 HOW ARE WE GOING TO DEAL WITH THE REMAINING FACTUAL ISSUES
2 PARTICULARLY THOSE DEALING WITH OWNERSHIP AND CONTROL.

3 YOUR HONOR HAS ALREADY HELD THAT THERE ARE SUCH
4 FACTUAL ISSUES REMAINING AS TO OWNERSHIP AND CONTROL OF
5 COMPANIES LIKE PANASONIC. YOU MAY REMEMBER THAT IN A RULING ON
6 A COSTCO MOTION, YOU CONCLUDED THAT THERE WERE MATERIAL ISSUES
7 OF FACT AS TO OWNERSHIP OR CONTROL WITH REGARD TO PANASONIC AND
8 SOME OTHER COMPANIES.

9 THOSE ISSUES ARE NECESSARY TO RESOLVE IN ORDER TO
10 DETERMINE WHETHER THE PLAINTIFFS HAVE STANDING FOR THEIR CLAIMS
11 AS TO THOSE DAMAGES. SO, IF THERE'S NOT GOING TO BE AN
12 EVIDENTIARY RULING BY THE COURT -- AND I THINK WE ALREADY
13 STATED THE COURT OR THE SPECIAL MASTER SHOULD HAVE AN
14 EVIDENTIARY HEARING UNDER THE *ATM FEE DISPUTE* DECISIONS, WHICH
15 SETS STANDINGS FOR THE COURT AND HAS TO BE RESOLVED EVEN BY
16 EVIDENTIARY HEARING IF NECESSARY.

17 BUT IF YOUR HONOR IS NOT GOING TO DO THAT, HOW DO WE
18 RESOLVE THOSE ISSUES? DOES IT GO TO THE JURY? ARE THERE JURY
19 INSTRUCTIONS ON IT? DOES THE VERDICT FORM HAVE SPECIFIC
20 QUESTIONS ADDRESSING THESE ISSUES?

21 BECAUSE YOUR HONOR MAY REMEMBER THIS CAME UP AT THE
22 DPP TRIAL LAST YEAR. IN MY VIEW, ANYWAY, THERE NEVER WAS A
23 SATISFACTORY RESOLUTION OF HOW THOSE ISSUES WERE GOING TO BE
24 DEALT WITH. THE PARTIES INTRODUCED EVIDENCE AS TO OWNERSHIP OR
25 CONTROL DURING THE COURSE OF THE TRIAL, BUT THE JURY WAS NEVER

1 INSTRUCTED ON THOSE ISSUES, AND THE VERDICT FORM DIDN'T CALL
2 FOR A VERDICT -- OR AN ANSWER AS TO THOSE ISSUES.

3 SO, HOW DO WE DEAL WITH THOSE ISSUES?

4 **THE COURT:** SO WHAT YOU SAID IS YOU WOULD LIKE SOME
5 ANALYSIS OF THAT?

6 **MR. CURRAN:** OR MAYBE WE HAVE BEEN REMISS IN
7 EXPLAINING EXACTLY WHAT WE WANT AND WHY WE WANT IT. I MEAN,
8 OUR VIEW IS STANDING AS A THRESHOLD ISSUE.

9 **THE COURT:** MY VIEW WAS I ALREADY RESOLVED THAT IN
10 THE ORDER.

11 **MR. CURRAN:** AND I'M ACCEPTING THAT RESOLUTION, BUT
12 THEN WHAT? DOES THAT MEAN THAT THE FACTUAL ISSUES, WE'RE JUST
13 GOING TO LIVE WITH THOSE AND GO FORWARD AND THE JURY DOES WHAT
14 IT DOES? IT SEEMS TO ME THERE HAS TO BE SOME APPROACH
15 CONSISTENT WITH ATM'S STATEMENT THAT THESE ISSUES HAVE TO BE
16 RESOLVED.

17 **THE COURT:** WELL, PERHAPS YOU COULD SUGGEST HOW THE
18 COURT OUGHT TO HANDLE IT IF IT'S NOT GOING TO HAVE A SEPARATE
19 EVIDENTIARY HEARING.

20 **MR. CURRAN:** I SUSPECT THEN WE WILL BE ADDRESSING
21 THAT IN PROPOSED JURY INSTRUCTIONS AND A PROPOSED VERDICT FORM
22 THEN.

23 **THE COURT:** I WOULD THINK. I MEAN, THAT SEEMS LIKE,
24 TO ANSWER TO YOUR QUESTION, BUT I HAVEN'T THOUGHT IT THROUGH.

25 **MR. CURRAN:** ALL RIGHT. THANK YOU, YOUR HONOR.

1 **THE COURT:** YOU'RE WELCOME.

2 **MS. LEVINE:** GOOD AFTERNOON, YOUR HONOR. I'M JANET
3 LEVINE WITH CROWELL MORING ON BEHALF OF THE TARGET PLAINTIFFS.

4 ONE ISSUE THAT I WANTED TO BRING UP TO THE COURT THAT
5 IS NOT IN THE CMC, YOUR HONOR, HAS TO DO WITH THE AT&T DECISION
6 WHICH ISSUED BY THE NINTH CIRCUIT AND THE MANDATE ISSUE THIS
7 WEEK THAT'S ON THE QUESTION -- THE DUE PROCESS QUESTION.

8 WITH RESPECT TO THE TARGET PLAINTIFFS THAT WOULD
9 IMPACT THIS COURT'S PRIOR RULING DISMISSING SOME OF THE STATE
10 COURT CLAIMS -- AND I WANTED TO INQUIRE OF THE COURT WHETHER
11 THE COURT WISHED US TO FILE A MOTION FOR RECONSIDERATION OR IF
12 THE EXISTENCE OF THE DECISION ALONE WOULD HAVE THIS COURT
13 RECONSIDER THAT DECISION.

14 **THE COURT:** NO. YOU ASKED TWO QUESTIONS.

15 **MS. LEVINE:** I DID, AND I APOLOGIZE.

16 **THE COURT:** LET ME CLARIFY WHAT I'M SAYING "NO" TO.

17 I WANT A MOTION. I THINK FOR WHOMEVER IS LEFT
18 STANDING AND AFFECTED BY THAT, YOU ARE GOING TO NEED MAKE A
19 MOTION TO ME SO THAT I'LL UNDERSTAND EXACTLY WHAT THE
20 RAMIFICATIONS ARE. I'M HAPPY TO DO THAT. AND I AGREE THAT
21 THEY HAVE CHANGED THE LANDSCAPE, BUT I THINK IT WILL BE CLEARER
22 FOR EVERYBODY IF WHOEVER FEELS AFFECTED BY IT MAKES A MOTION ON
23 IT.

24 **MS. LEVINE:** WE WILL, YOUR HONOR, AND WE'LL FILE IT.
25 IT SEEMS APPROPRIATE TO FILE IT WITH A NOTICE FOR MOTION FOR

1 RECONSIDERATION BECAUSE IT COMES UP AS A DECISION THIS COURT
2 MADE AND THEN THE UNDERLYING SUBSTANTIVE MOTION BEHIND IT.

3 **THE COURT:** I DON'T KNOW WHAT IT WOULD BE CALLED. IF
4 IT'S APPROPRIATE THAT IT BE CALLED A MOTION TO RECONSIDER, THEN
5 I GIVE YOU LEAVE TO FILE A MOTION TO RECONSIDER, IF THAT'S WHAT
6 IT IS.

7 **MS. LEVINE:** THANK YOU, YOUR HONOR.

8 **THE COURT:** YOU'RE WELCOME.

9 **MS. TAYLOR:** GOOD AFTERNOON, YOUR HONOR. BROOK
10 TAYLOR OF SUSMAN GODFREY, T-MOBILE. I HEARD YOUR HONOR'S
11 RULING WITH RESPECT TO THE NEED TO BRING A MOTION WITH RESPECT
12 TO THE INDIRECT CLAIMS, AND WE UNDERSTAND THAT. I DO JUST WANT
13 TO CLARIFY ONE ISSUE.

14 **THE COURT:** WITH RESPECT TO THE INDIRECT --

15 **MS. TAYLOR:** THE T-MOBILE CLAIMS AFFECTED BY THE AT&T
16 INTERLOCUTORY APPEAL THAT YOU MENTIONED. AND FOR US, THE ISSUE
17 ISN'T REALLY WHAT THE PROPER MECHANISM IS TO BRING THE CLAIMS
18 BACK. WE'RE HAPPY, OF COURSE, TO FOLLOW YOUR DIRECTION AND
19 FILE A MOTION.

20 OUR QUESTION IS REALLY THE QUESTION OF THE SCHEDULE.
21 THE DEFENDANTS HAVE HAD LONG OUTSTANDING REQUESTS FOR THE
22 INDIRECT DISCOVERY. WE OBJECTED TO THOSE WHEN THEY WERE OUT OF
23 THE CASE. NOW THAT WE WILL FOLLOW THIS MOTION PRACTICE, WE
24 WOULD PREFER TO GO AHEAD AND PROCEED WITH THE DISCOVERY THAT
25 THE DEFENDANTS ARE SEEKING AND --

1 **THE COURT:** WHO DO YOU REPRESENT?

2 **MS. TAYLOR:** T-MOBILE.

3 **THE COURT:** ARE YOU A PLAINTIFF OR DEFENDANT?

4 **MS. TAYLOR:** PLAINTIFF.

5 **THE COURT:** OKAY.

6 **MS. TAYLOR:** SO WE ARE ON THE TRACK 2 CALENDAR, AND,
7 YOU KNOW, THE TRACK 2'S HAVE STIPULATED TO A 30-DAY EXTENSION
8 THAT WOULD -- 45-DAY EXTENSION THAT WOULD TAKE THE CLOSE OF
9 DISCOVERY FROM APRIL 2ND TO MAY 17TH.

10 RECOGNIZING THAT THE NINTH CIRCUIT'S DECISION HAS
11 COMPLICATED AND CHANGED THE LANDSCAPE, WE PROPOSED TO
12 DEFENDANTS THAT INSTEAD OF JUST BEING ON THAT 45-DAY EXTENSION,
13 THAT WE HAVE A 75-DAY EXTENSION OUT TO JUNE 17TH. AND THE
14 DEFENDANTS HAVE SAID, NO, WE NEED TO, YOU KNOW, GO THROUGH A
15 BUNCH OF MOTION PRACTICE, THEN WE WILL HAVE TO SEE HOW LONG
16 DISCOVERY WILL TAKE; WE DON'T KNOW WHAT THAT IS, BUT WE'LL
17 LIKELY SEE YOU IN SIX MONTHS FROM THEN, WHICH WILL THEN BRING
18 US INTO EARLY 2014.

19 I DON'T THINK THE INTERLOCUTORY APPEAL REALLY CHANGES
20 THE LANDSCAPE IN A WAY THAT MEANS THAT WE CAN'T -- THAT
21 T-MOBILE MAY NOT STAY ON THE TRACK 2'S. WE ARE PREPARED TO DO
22 THE LIMITED AMOUNT OF DISCOVERY THAT NEEDS TO BE COMPLETED. WE
23 PROPOSED 75 DAYS AND THINK THAT'S SUFFICIENT.

24 SO, I UNDERSTAND THE NEED FOR THE MOTION PRACTICE.
25 WE WOULD PROPOSE THAT THE DISCOVERY GO FORWARD CONCURRENTLY

1 WITH THAT AND THAT WE CAN STAY WITH THE REST OF THE TRACK 2'S.

2 **THE COURT:** AND THE DEFENSE SAYS, WELL, IT'S
3 DISMISSED WITH PREJUDICE, AND, SO, FORGET IT, YOU'RE OUT; IS
4 THAT --

5 **MR. CURRAN:** WE'RE FINE PROGRESSING WITH DISCOVERY.

6 **THE COURT:** OH, OKAY. YOU JUST --

7 **MR. CURRAN:** WE'RE FINE PROGRESSING WITH DISCOVERY
8 WHILE THAT MOTION PRACTICE IS PLAYING OUT. WE JUST WANT TO
9 MAKE SURE WE HAVE ENOUGH TIME TO DO THE NECESSARY DISCOVERY. I
10 DON'T KNOW HOW LONG THAT WILL TAKE. IT MAY DEPEND WHETHER WE
11 ARE IN TRIAL IN THIS COURTROOM IN JULY AT THE TIME.

12 SO, I JUST DIDN'T WANT TO IRREVOCABLY COMMIT TO 75
13 DAYS RUNNING FROM NOW, BUT WE'RE OPEN MINDED, AND WE ARE TRYING
14 NOT TO BE DOGMATIC IN ANY REGARD.

15 **THE COURT:** SO IT CAN GO FORWARD IS WHAT YOU'RE
16 SAYING?

17 **MR. CURRAN:** ABSOLUTELY.

18 **MS. TAYLOR:** THAT IS THE ISSUE. WE ARE SAYING, WHY
19 DON'T WE STIPULATE TO 75 DAYS, AND THEN IF THEY NEED MORE TIME,
20 THEY FEEL THEY HAVE BEEN DILIGENT IN THAT TIME AND THEY HAVEN'T
21 GOTTEN WHAT THEY NEEDED, THEY COULD COME BACK AND ASK FOR MORE.
22 WE WANT IT TO BE ON A SCHEDULE, AND WE DON'T WANT IT TO BE OUT
23 THERE WITHOUT A SCHEDULE.

24 **MR. CURRAN:** WE ARE JUST GETTING PINCHED A LITTLE BIT
25 HERE. WE HAVE BEEN PUT ON THE BEST BUY TRACK ON AN ACCELERATED

1 BASIS. WE HAVE A LOT GOING ON. WE HAVE EXPERT DISCOVERY
2 THERE. WE HAVE FACT DISCOVERY GOING ON THERE. T-MOBILE IS
3 TRACK 2. WE HAVE TO PRIORITIZE OUR RESOURCES.

4 SO I THINK MAYBE TENTATIVELY WE'LL TRY TO DO IT IN 75
5 DAYS, BUT IF WE NEED MORE TIME, WE NEED MORE TIME.

6 **THE COURT:** THAT WILL BE THE COURT'S RULING. HOW'S
7 THAT?

8 **MR. CURRAN:** THANK YOU, YOUR HONOR.

9 **THE COURT:** WHAT ELSE, ANYBODY ELSE?

10 ALL RIGHT. GOING ONCE? OKAY. GOOD TO SEE YOU ALL.

11 WHAT I WOULD SUGGEST -- AND I DON'T KNOW WHO IS IN
12 CHARGE OF WHAT, BUT MAYBE IN TWO WEEKS, CAN YOU GET ME YOUR
13 BEST SHOT AT EITHER A JOINTLY-AGREED SCHEDULE FOR ALL THESE
14 THINGS THAT NEED TO BE SCHEDULED, OR THE COMPETING PROPOSALS
15 AND THEN I WILL TAKE A LOOK AT THAT? GREAT. THANK YOU.

16 (PROCEEDINGS ADJOURNED.)
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CERTIFICATE OF REPORTER

I, JOAN MARIE COLUMBINI, OFFICIAL REPORTER FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IN MDL 07-1827 SI, IN RE: TFT LCD FLAT PANEL LITIGATION, WERE REPORTED BY ME, A CERTIFIED SHORTHAND REPORTER, AND WERE THEREAFTER TRANSCRIBED UNDER MY DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AS BOUND BY ME AT THE TIME OF FILING.

THE VALIDITY OF THE REPORTER'S CERTIFICATION OF SAID TRANSCRIPT MAY BE VOID UPON DISASSEMBLY AND/OR REMOVAL FROM THE COURT FILE.



/S/ JOAN MARIE COLUMBINI, CSR 5435, RPR

TUESDAY, MARCH 26, 2013